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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,806	02/10/2005	Manfred Bauar	23159	1613
535 7590 10/16/2007 K.F. ROSS P.C. 5683 RIVERDALE AVENUE SUITE 203 BOX 900 BRONX, NY 10471-0900			EXAMINER HOWELL, DANIEL W	
			ART UNIT 3722	PAPER NUMBER
			MAIL DATE 10/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,806

Applicant(s)

BAUER ET AL.

Examiner

Daniel W. Howell

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2-10-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

1. The examiner will begin with an initial comment regarding claim 1. It is noted that lines 7-11 of claim 1 do not have any commas, and line 10 also sets forth an “and/or.” The examiner will interpret these lines as follows: 1) there is a cutting insert fixed in a cassette-shaped holder; and 2) the cassette-shaped holder may be a) axially adjustable by an adjustment wedge, OR b) may be radially adjustable by an adjustment wedge, OR c) may be adjusted in a manner according to both a) and b). Thus, a reference teaching only a single one of a) or b) will meet claim 1, as will a reference teaching both a) and b).
2. On line 7 of claim 2, the “of” needs to be correctly spelled.
3. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.
4. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding line 2 of claim 1, the “in particular” phrase does not make it clear if this structure is present or not. Claim 1 also sets forth a phrase “near where it bears on the cutting insert.” Presumably, “it” refers to the adjustment wedge, but this fact is not distinctly set forth. Further, the wedge does not appear to bear “on the cutting insert” in any of the embodiments. Rather, the wedge bears “on the cassette shaped holder.”
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Muenlein et al (5188490). Bar shaped tool/mount 14 has two cassette holders 24 each having an attached insert 22. The holder is adjusted axially by a wedge 46. Screw 36 clamps the holder 24 in place by seating in a stepped bore 38 (see figure 3) and threads into bore 40 in the back face of the holder.

7. Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Plein (3276101). Bar shaped tool 16 has three cassette holders 31 that have indexable inserts 35. A wedge 48 is moved axially in order to bend the cassette at 38 and move the insert radially. The wedge bears on the lower side face of the holder through pin 44. Screw 32 fits in a stepped bore 34 and threads into mount 16.

8. Claims 1, 5, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Borgardt (3914841). Milling cutter body/mount 12 has a plurality of radially adjustable holders 10, each having an insert 11. The holder is pivotable about a pin 15, and double ended screw 18 is rotated to move wedge 17 against a lower side face of the holder in order to cause the pivoting. Holder 10 has a stepped bore for screw 13, the screw fitting into a bore in mount 12, 14.

9. Claims 1, 4, 5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by German 3736246. See figures 4-6. Insert 11 is secured on cassette holder 51, and screw 56 in bore 57 threads into the back of the holder to secure it on mount 113. Wedge 114 is moved by screw 117 in order to adjust the insert radially.

10. Claims 1, 2, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Naccarato et al (4547100). Cassette holder 300 has a PKD insert 201 (column 4, lines 17-23) and is secured to mount 101 by screw 600. The cassette has a slot 311, and as double ended

Art Unit: 3722

screw 401 is rotated, wedge 400 presses against the back of the holder to bend it and move the insert axially as at 700. Though the lower portion of the cassette is somewhat thick, the holder is considered to be doubly bend as per claim 2.

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muendlein et al '490. Regarding the axial range of adjustment, it is considered to have been obvious to have provided Muendlein et al with an appropriate range of axial adjustment necessary to balance axial forces and compensate for things such as alignment of the two cutting inserts 23 and compensation of wear.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Muendlein et al in view of Kieninger (4964763). The insert of Muendlein et al is indexible, but the material does not seem to be discussed. Kieninger shows a similar indexible insert 14 which is disclosed as being made of PKD (column 3, lines 18-28). It is considered to have been obvious to have embodied the insert of Muendlein et al of PKD as shown by Kieninger as PKD has a high hardness that will be wear resistant.

14. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naccarato et al. Regarding the axial range of adjustment, lines 28-45 of column 4 do discuss the range of axial adjustment in order to obtain a desired finish. It is considered to have been obvious to have

Art Unit: 3722

provided Naccarato et al with an appropriate range of axial adjustment necessary for the desired finish as appropriate.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naccarato et al in view of Kieninger (4964763). Naccarato et al does disclose the use of polycrystalline diamond, but the insert does not appear to be indexible. Kieninger shows that it is conventional to provide a cutting insert with a plurality of cutting edges in order to extend the life of the insert. In view of this teaching of Kieninger, it is considered to have provided the insert of Naccarato et al with a plurality of cutting edges in order to extend the life of the insert.

16. Claims 11-14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 571-272-4478. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, Monica Carter, may be reached at 571-272-4475.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number to 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Daniel Howell of Art Unit 3722 at the top of your cover sheet.



Daniel W. Howell
Primary Examiner
Art Unit 3722